

24



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,479	08/23/2004	Yorio Takahashi	YMOR:338	3630

27890 7590 01/12/2006
 STEPTOE & JOHNSON LLP
 1330 CONNECTICUT AVENUE, N.W.
 WASHINGTON, DC 20036

EXAMINER

LAMB, CHRISTOPHER RAY

ART UNIT	PAPER NUMBER
----------	--------------

2656

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/505,479

Applicant(s)

TAKAHASHI, YORIO

Examiner

Christopher R. Lamb

Art Unit

2656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/23/04.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. Figure 9 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities:
- a. The specification refers to equations 25, 27, 30, 32, 33, 38, and 39. These are of the form "DAT1 [1]~DAT1 [12]." These equations are not understandable.
 - b. The word "nonoperational" is used throughout the specifications. This word is usually written "non-operational."
- Appropriate correction is required.

Claim Objections

3. Claims 1-2 and 6-7 objected to because of the following informalities:
- a. In claim 1, line 7, the phrase "for the information disk" is not correct because the rotational position information is not used by the information disk. It

should probably read "*about* the information disk." (Likewise for claims 2, 6, and 7.)

b. In claim 1, lines 7-8, the phrase "information disk of the disk rotating unit" lacks antecedent basis because the information disk was not claimed as part of the disk rotating unit. It should probably read "information disk *rotated by* the disk rotating unit." (Likewise for claim 2.)

c. The phrase "while making the radius driving unit nonoperational" should probably be replaced by the phrase "while not operating the radius driving unit."

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-10 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In claim 1 (page 2, lines 15-16), the counted values are compared with a "predetermined threshold value." This value is required to use the invention. The specification does not describe how the "predetermined threshold value" is determined.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 2656

7. Claims 1-10 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Regarding claims 1-10:

The use of “...” throughout all the claims makes the claims indefinite and vague.

b. Regarding claims 1 and 6:

The phrase “in each area provided by dividing one rotation into m (m is a natural number equal to or larger than 2)” is not understandable because it is not clear what the areas are, or how a rotation can be divided into parts.

c. Regarding claims 2 and 7:

The phrase “in each area provided by dividing one rotation into n (n is a natural number equal to or larger than 2)” is not understandable because it is not clear what the areas are, or how a rotation can be divided into parts. Likewise the phrase “which further divides into k (k is a natural number equal to or larger than 1) the area having been provided by dividing one rotation into n for the rotational position information from the rotational position output unit” is also unclear.

d. Regarding claims 1-2 and 6-10:

The phrase “and compares a difference between the first counted value and the second, third, ... counted values with a predetermined threshold value so as to determine a maximum rotational speed of the information disk while using, as a vibration detection value, a value proportionate to a sum of absolute values of counted

Art Unit: 2656

values obtained in the areas divided into m" is vague because it is not clear how to use a value as a vibration detection value.

It is the examiner's understanding from the specification that the device compares the vibration detection value to a predetermined threshold value (as in page 35, lines 6-9). The claim, however, seems to state that the device compares the counted values to the predetermined threshold value "while using" the vibration detection value, which is not the same thing.

e. Regarding claims 3-5 and 8-10:

i. The phrase:

"a difference between the counted value at the first rotational speed and the counted value at each of the second, third ... rotational speeds" (lines 3-5 of claims 3-5, lines 4-6 of claims 8-10) is vague because it is not clear if it is the difference between the value at the first speed and the value at the second speed or the difference between the value at the first speed and the value at a third speed, or some higher speed.

ii. The equation claimed in each of these claims,

$$\text{DAT [1]} \sim \text{DAT [m]}$$

is vague and indefinite. It does not appear to be an equation.

8. The scope of the claims cannot be determined because of the rejections under 35 U.S.C. 112, first paragraph, and 35 U.S.C. second paragraph. Therefore no art has been applied to the claims in this office action.

Art Unit: 2656

Conclusion

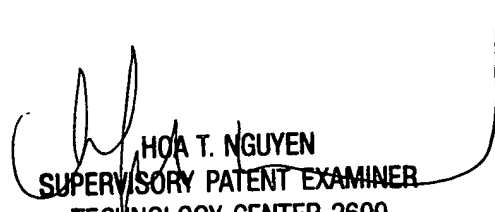
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kanda et al. (U.S. Patent 6,304,528), Fukuda (U.S. Patent 6,711,109), Fukuda et al. (U.S. Patent 6,351,440), Ota et al. (U.S. Patent 6,009,053), Kishinami et al. (U.S. Patent 6,118,739).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Lamb whose telephone number is (572) 272-5264. The examiner can normally be reached on 8:30 AM to 6:00 PM Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen can be reached on (571) 272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CRL 1/5/06


HOA T. NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
6/7/06